

**MICHAEL A. KITCHEN, et al.,**

**Plaintiffs,**

**v.**

**SHAWN MILLER, et al.,**

**Defendants.**

---

Pending before the Court is the Motion to Reopen Discovery [# 65].

Defendants move the Court to reopen discovery in this case. The Court **DENIES** the motion [# 65].

Discovery in this case closed June 1, 2016. Summary Judgment motions were due July 1, 2016. On June 28, 2016, well after the close of discovery, Defendants moved to reopen discovery for a period of at least sixty days. Defendants contend that this extension was necessary as the result of Plaintiff Michael Kitchen's decision to live off the grid in the woods without contact with his family or attorney.

Previously, this Court denied Plaintiffs' motion to extend the pretrial deadlines in this case. (Order, Jan. 20, 2016, ECF No. 50.) As the Court

previously stated:

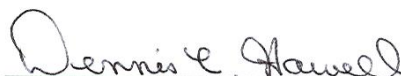
While the Court is cognizant of the difficult situation that Mr. Kitchen's decision to go live in the woods without informing people of where he might be living poses on counsel, the Court cannot allow the actions of Mr. Kitchen to delay the resolution of a civil action that he brought against Defendants. If Mr. Kitchen is not serious about prosecuting his claims and would rather disappear into the woods than participate in discovery, then he may certainly decide to do so. This Court, however, will not allow such actions to delay the resolution of this civil proceedings.

(Id.) Rather than move to compel Plaintiff Michael Kitchen to respond to discovery or compel his deposition during the discovery period, however, Defendants decided to wait and do nothing until nearly four weeks after the close of discovery. Defendants have simply waited too long to seek assistance from the Court in managing the discovery process in this case. Defendants could, and should, have filed their motions during the discovery period instead of waiting nearly a month after the close of discovery to compel discovery and to reopen discovery. Upon a review of the record in this case and the relevant legal authority, the Court **DENIES** the motion.

## **II. Conclusion**

The Court **DENIES** the Motion to Reopen Discovery [# 65].

Signed: July 12, 2016



Dennis L. Howell  
United States Magistrate Judge

